

daily adult requirement for those nutrients; that the article "controls calories" supplied adequate nutrition and satisfied the appetite; that the body's nutritive needs were fully met through the use of the article; that the "body tissues, muscles, blood, nails, skin, hair * * * are composed of protein"; that the article's "high protein" level maintained blood sugar level, preventing hunger and speeding up the slimming process; that the article was a low-sodium food; and that five ounces of the article added to one quart of whole milk provided 1,200 calories; and the can label contained statements relative to the nutrient content of the article which were misleading since they failed to reveal the material fact that not all of the nutrients in the declared amounts were supplied by the article prior to the addition of one quart of skim milk; and 403(j)—the article purported to be and was represented as a food for special dietary use, and its label failed to bear, as required by regulations, statements of the percent by weight of the artificial sweeteners in the article, that the artificial sweeteners were nonnutritive, and the statements "Contains — saccharin, a nonnutritive artificial sweetner which should be used only by persons who must restrict their intake of ordinary sweets," the blank to be filled in with the percent by weight of saccharin in such food.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 6925.

DISPOSITION: 2-20-62 and 2-26-62. Default—delivered to a charitable institution.

28400. Vitamin Cheweez tablets. (F.D.C. No. 44735. S. No. 36-651 R.)

QUANTITY: 20,000 tablets in bulk, 156 unlabeled 100-tablet btls. and 38 labeled 100-tablet btls., at Philadelphia, Pa.

SHIPPED: 3-22-60, from Long Island City, N.Y.

LABEL IN PART: (Drum) "25 M Tablets Vitamin Cheweez Tablets Cherry Each tablet contains * * * Vitamin B-12 USP 3 mcg. * * *"; (btl.) "Children's Chewing Vitamin Tablets Cherry Flavored * * * Each tablet contains * * * Vitamin B-12 USP 3 mcg."

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 74 percent of the declared amount of vitamin B₁₂. The article had been shipped in bulk and had, in part, been repacked and labeled by the dealer.

LIBELED: 7-21-60, E. Dist. Pa.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent of the article, vitamin B₁₂, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Vitamin B-12 USP 3 mcg." was false and misleading.

DISPOSITION: On 8-15-60, Nysco Laboratories, Inc., Long Island City, N.Y., claimed the article and filed an answer denying that the article was adulterated or misbranded. Thereafter the Government served interrogatories upon the claimant which were answered by the claimant on 2-7-61. On 9-14-61, the court granted the claimant's motion for a representative sample of the article. On 11-6-61, the Government filed a motion to compel further and more complete answers to the interrogatories; and on 3-13-62, such motion was granted. Subsequently the claimants filed further answers to the Government's interrogatories. On 9-19-62, the claimant having consented to a decree without admitting any of the issues of law or fact, judgment was entered providing for condemnation and destruction of the article.